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BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 96-219-C - ORDER NO. 96-761  
NOVEMBER 4, 1996

IN RE: Application of LCI International Telecom ) ORDER  
Corp. for Authority to Provide Local ) GRANTING  
Exchange Service. ) APPLICATION  
 ) TO PROVIDE  
 ) LOCAL SERVICE

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the Application of LCI International Telecom Corp. ("LCI" or "the Company") for authority to provide Local Exchange Service within the State of South Carolina. The Applicant requests authority to provide local exchange service within South Carolina. The Application was filed pursuant to S. C. Code Ann. §58-9-280 (as amended by Act No. 354, 1996 S. C. Acts), and the Regulations of the Commission.

By letter, the Commission's Executive Director instructed LCI to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. LCI complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. Petitions to Intervene were received from BellSouth Telecommunications, Inc. ("BellSouth"); the

Consumer Advocate for the State of South Carolina ("the Consumer Advocate"); the South Carolina Telephone Association ("SCTA"); and the South Carolina Telephone Coalition ("SCTC").

A hearing was convened on October 30, 1996, at 2:30 p.m. in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. The Company was represented by Faye A. Flowers, Esquire; the Consumer Advocate was represented by Elliott F. Elam, Jr., Esquire; SCTC was represented by Margaret M. Fox, Esquire; and the Commission Staff ("the Staff") was represented by F. David Butler, General Counsel. Neither BellSouth nor SCTA participated in the hearing.

At the beginning of the hearing, counsel for SCTC announced that a Stipulation had been reached with LCI in which, among other things, LCI stipulated that it would only seek authority in non-rural local exchange ("LEC") service areas of South Carolina, and that LCI stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. LCI also agreed to abide by all State and Federal laws and to participate to the extent it may be required to do so by the Commission in the support of universally available telephone service at affordable rates. The Stipulation is approved and attached hereto as HE 1.

In support of its Application, LCI presented the testimony of Scott McMahon, Regulatory Attorney for LCI. The purpose of McMahon's testimony was to 1) describe the corporate structure of the Applicant, 2) describe the financial, technical, and

managerial resources of LCI, 3) describe the Application, 4) comment on the public need for and the public benefits of the Company's proposed intrastate service. According to McMahon, LCI plans to offer all local services presently offered by local exchange carriers through resale, and, to some limited degree, through facilities-based operation.

#### DISCUSSION

S. C. Code Ann. §58-9-280 ( as amended by Act. No 354, 1996 S. C. Acts) provides that the Commission may grant a certificate to operate as a telephone utility... to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, LCI's Application and the evidence presented at the hearing, the Commission finds and concludes that the certificate sought by LCI should be granted. The Commission's determination is based on the following criteria as provided in S. C. Code Ann. §58-9-280 (as amended by Act. No. 354, 1996 S. C. Acts) and the evidence presented which relates to these criteria:

(1) The Commission finds that LCI possesses the technical, financial, and managerial resources sufficient to provide the service requested. S. C. Code Ann. §58-9-280(B)(1). To demonstrate LCI's technical qualifications, witness McMahon noted the configuration of LCI's various networks in existence across the nation. Concerning LCI's managerial qualifications, McMahon testified that LCI's leadership team has many years of experience

in the telecommunications industry and extensive operational experience. Regarding LCI's financial resources, McMahon testified that LCI is financially well qualified to provide telecommunications services in South Carolina. No party offered any evidence in opposition to McMahon's testimony. Based on the undisputed testimony of McMahon, the Commission finds that LCI possesses the technical, financial, and managerial resources sufficient to provide the services requested.

(2) The Commission finds that LCI will provide services that will meet the service standard of the Commission. S. C. Code Ann. §58-9-280(B)(2) (as amended by Act. No. 354, 1996 S. C. Acts). McMahon testified that LCI seeks to provide intrastate local exchange services. LCI, through McMahon, specifically stated that LCI will comply with all applicable rules, policies, and statutes applicable to the offering of those services, and that LCI fully intends to meet the Commission's service standards. Further, McMahon testified that LCI agreed to modify its illustrative tariff to include all matters discussed with the Staff to conform said tariff to South Carolina law. Based on the undisputed testimony of McMahon, the Commission believes, and so finds, that LCI will provide telecommunications services which will meet the service standards of the Commission.

(3) The Commission finds that LCI's "provision of service will not adversely impact the availability of affordable local exchange service." S. C. Code Ann. §58-9-280(B)(3) (as amended by Act. 354, 1996 S. C. Acts). McMahon testified that LCI believes

that availability of affordable local service will increase with LCI's admission into the local markets. Further, McMahon's prefiled testimony reveals the LCI believes that approval of its Application will increase competition for basic local exchange services which will offer customers in South Carolina a wider range of product offerings, innovative technologies, improvements in the quality of service, and reductions in the cost to consumers for telecommunications services. No party offered any evidence that the provision of local exchange service by LCI will adversely affect local rates. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by LCI will not adversely impact affordable local exchange service.

(4) The Commission finds that LCI will support universally available telephone service at affordable rates. S. C. Code Ann. §58-9-280(B)(4) (as amended by Act No. 354, 1996 S. C. Acts.) The Stipulation between LCI and SCTC adopted by this Commission shows that LCI fully intends to comply with the Commission's universal service requirements and will contribute to universal service mechanisms on the State and Federal levels as the universal service mechanisms may apply to LCI. No party disputed LCI's Stipulation to this effect. Based on the undisputed evidence of record, the Commission finds that LCI will participate in support of universally available telephone service at affordable rates.

(5) The Commission finds that the provision of local

exchange service by LCI "does not otherwise adversely impact the public interest." S. C. Code Ann. §58-9-280(B)(5) (as amended by Act No. 354, 1996 S. C. Acts.) McMahon offered testimony that the competition of LCI offering services in non-rural local exchange territory will benefit those customers. McMahon explained that incumbent LECs in non-rural local exchange territory will have increased economic incentives to offer the consumers high quality of services at lower prices, and that improvements will be promoted in their services. Therefore, the Commission finds that approval of LCI's Application to provide local exchange service "does not otherwise adversely impact the public interest." S. C. Code Ann. §58-9-280(B)(5) (as amended by Act No. 354, 1996 S. C. Acts.)

Therefore, based on the findings above, the Commission finds and concludes that a Certificate of Public Convenience and Necessity should be granted to LCI.

IT IS THEREFORE ORDERED THAT:

1. The Application of LCI for a Certificate of Public Convenience and Necessity to allow it to provide competitive intrastate local exchange services in the non-rural local exchange service areas is approved. LCI is hereby authorized to provide competitive local exchange service in these service areas in South Carolina. The terms of the Stipulation between LCI and SCTC are approved, and adopted as a portion of this Order. Any proposal to provide such service to rural service areas is subject to the terms of the Stipulation.

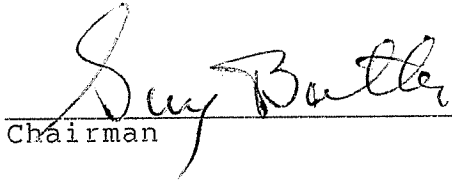
2. LCI shall file, prior to offering local exchange service in South Carolina, a final tariff of its service offerings conforming to all matters discussed with the Staff, and comporting with South Carolina law in all matters.

3. LCI shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relation (complaint) matters, engineering operations, and tests and repairs. In addition, LCI shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. LCI shall file with the Commission the names, addresses, and telephone numbers of these representatives within thirty (30) days of receipt of this Order. Further, LCI shall promptly notify the Commission in writing if the representatives are replaced. LCI is directed to comply with all Commission regulations unless expressly waived by the Commission.

4. LCI shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)



4. LCI stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area,

unless and until LCI provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, LCI acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. LCI stipulates and agrees that if, after LCI gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then LCI will not provide service to any customer located within the service area in question without prior and further Commission approval.

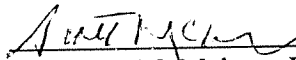
6. LCI acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

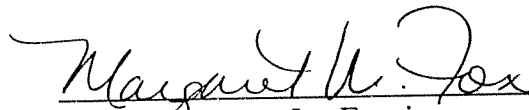
8. LCI agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

AGREED AND STIPULATED to this 30<sup>th</sup> day of October, 1996.

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